

Message Text

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LAB-04 NSAE-00 NSC-05 PA-01 CTME-00 AID-05 SS-15
STR-07 ITC-01 TRSE-00 ICA-11 SP-02 SOE-02 OMB-01
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P R 140022Z JUN 78
FM SECSTATE WASHDC
TO USMISSION GENEVA PRIORITY
INFO AMEMBASSY BRASILIA
AMCONSUL SAO PAULO

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E.O. 11652: N/A

AGS: ETRD, GATT, BR

SUBJECT: GATT ARTICLE XXVIII NEGOTIATIONS WITH BRAZIL

REFTEL: (A) SAO PAULO 1660 (B) GENEVA 8588

1. THERE FOLLOWS DRAFT TPSC PAPER CONTAINING PROPOSED INSTRUCTIONS FOR JUNE 15 ROUND OF SUBJECT NEGOTIATIONS. AMENDMENTS AND CLEARANCE WILL BE CABLED TOMORROW FOLLOWING RESOLUTION OF FOLLOWING ISSUES IN TPSC CLEARANCE PROCESS: (A) INSISTENCE ON COMMITMENT REGARDING FREE ISSUANCE OF IMPORT LICENSES, (B) REFERENCE TO POSSIBLE ARTICLE XXIII ACTION ON SECTORAL DEVELOPMENT POLICIES, (C) INCLUSION OF MTN ITEMS IN ARTICLE XXVIII REQUEST. THIS ADVANCE VERSION IS BEING TRANSMITTED TO ALLOW MISSION OFFICER SUFFICIENT LIMITED OFFICIAL USE
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TIME TO FAMILIARIZE HIMSELF WITH COMPLEXITIES BEFORE NEGOTIATION. NO ACTION SHOULD BE TAKEN, HOWEVER, BEFORE CONFIRMATION OF TPSC APPROVAL.

2. IN FOLLOWING TEXT, (A) DENOTES ITEMS PREVIOUSLY REQUESTED IN ARTICLE XXVIII NEGOTIATION AND (B) ITEM WHICH APPEARED IN U.S. MTN INDICATIVE LIST.

3. PROBLEM

BRAZIL HAS PRESENTED THE U.S. WITH AN OFFER AS COMPENSATION FOR MODIFICATIONS WHICH IMPAIRED CONCESSIONS GRANTED TO THE CONTRACTING PARTIES IN SCHEDULE III - BRAZIL OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT). U.S. MISSION GENEVA HAS REQUESTED INSTRUCTIONS SO THAT IT MAY GIVE THE DETAILED U.S. REACTION TO THE BRAZILIAN OFFER AT A MEETING SCHEDULED FOR JUNE 15.

4. RECOMMENDATION

A. THE U.S. REPRESENTATIVE SHOULD INDICATE OUR ACCEPTANCE OF BRAZIL'S OFFER TO BIND TARIFFS ON THE FOLLOWING ITEMS AT THE INDICATED RATES:

B TN	SHORTHAND DESCRIPTION	STAT	BND	OF R
(A)84.23.02.10	ROAD SCRAPERS	30	30	
(A)84.35.05.00	ROTARY PRESSES	30	20	15
(A)84.56.99.00	SORTING AND SCREENING MACHINERY	45	45	
(A)85.15.07.00	CONTROL PANELS	55	55	
(A)85.19.02.99	CONTROL AND SAFETY APPARATUS	45	45	
(A)85.19.03.01	CONTROL AND SAFETY APPARATUS	37	32	30
(A)85.19.05.99	APPARATUS FOR ELECT. CONNECTIONS	55	55	
(A)87.02.03.05	DUMP TRUCKS	30	30	
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B. THE U.S. REPRESENTATIVE SHOULD INDICATE THAT WE ARE SKEPTICAL OF BRAZIL'S NEED FOR CEILING BINDINGS--AT TIMES 30 PERCENTAGE POINTS ABOVE THE STATUTORY RATE. GATT ARTICLES XVIII:A AND XXVIII ALREADY PROVIDE ADEQUATE FLEXIBILITY FOR CONTRACTING PARTIES TO RAISE BOUND RATES WHEN NECESSARY.

C. THE U.S. REPRESENTATIVE SHOULD REQUEST LOWER BOUND RATES FOR THE FOLLOWING ITEMS FOR WHICH BRAZIL HAS OFFERED HIGH CEILING BINDINGS:

B TN	SHORTHAND DESCRIPTION	ST	R	REQ
29.09.04.00	POLYPROPYLENE OXIDE	15	45	30
29.14.03.20	VINYL ACETATE	37	45	30
38.14.01.00	ADDITIVES FOR LUBRICATING OILS	17	47	30
40.02.99.06	POLYISOBUTYLENE-ISOPRENE (A)	20	50	30
94.22.09.00	SELF-PROPELLED CRANES	30	45	30
90.10.18.00	PHOTOCOPIERS FOR OPTIC SYSTEMS	30	45	30
38.14.02.01	TETRAETHYL LEAD	12	30	20
40.02.99.04	POLYCHLOROBUTADIENE (A)	20	50	30
87.01.01.01	SEMI-TRAILOR TRACTORS (B)	20	30	10
90.19.99.00	ORTHOPEDIC APPLIANCES(B)	15	30	0

D. THE U.S. REPRESENTATIVE SHOULD ASK BRAZIL TO IMPROVE ITS OFFER ON THE FOLLOWING ITEMS:
TARIFF

B TN SHORTHAND DESCRIPTION STAT BND OFR REQ

84.61.03.02 COPPER VALVES(A) 55 55 50 35
85.19.01.02 MAKE-AND-BREAK SWITCHES(A) 70 60 45
85.19.07.99 OTHER RESISTORS(A) 55 55 30

E. APPLES AND PEARS: THE U.S. REPRESENTATIVE SHOULD ASK IF BRAZIL IS OFFERING GUARANTEED ACCESS FOR THE QUOTA QUANTITIES INDICATED OR SIMPLY TARIFF QUOTAS BOUND AT 25 PER-LIMITED OFFICIAL USE
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CENT FOR THESE QUANTITIES.

F. THE U.S. REPRESENTATIVE SHOULD INDICATE THAT WE ARE NOT INTERESTED IN BRAZIL'S OFFER ON 84.35.04.01 (DUPLICATING MACHINES, OFFSET TYPE).

G. THE U.S. REPRESENTATIVE SHOULD ASK BRAZIL TO RECONSIDER OUR ORIGINAL REQUESTS FOR CONCESSIONS ON THE FOLLOWING TEMS:

84.06.03.00 OTHER SPARK IGNITION ENGINES(A)
84.06.91.04 PISTONS(A)
85.15.03.01 PORTABLE TRANSCEIVERS(A)
85.19.08.00 PRINTED CIRCUITS(A)
87.01.05.00 WHEEL TRACTORS (A)
87.01.08.00 TRACK-TYPE TRACTORS (A)
87.01.09.00 WHEEL TRACTOR UNITS (A)

H. ITEMS IN ATTACHMENT II WHICH ORIGINALLY APPEARED ON THE U.S. TROPICAL PRODUCTS REQUEST SHOULD BE PRESENTED TO BRAZIL AS ADDITIONAL REQUESTS FOR COMPENSATION IN THE ARTICLE XXVIII NEGOTIATION.

I. THE U.S. REPRESENTATIVE SHOULD INSIST ON A COMMITMENT FROM BRAZIL THAT IMPORT LICENSES FOR THE ITEMS ON WHICH CONCESSIONS ARE GRANTED BE ISSUED PROMPTLY WITHOUT ANY RESTRICTIONS.

J. THE U.S. REPRESENTATIVE SHOULD REQUEST THAT BRAZIL NOT APPLY A TARIFF SURCHARGE ON ANY ITEM BOUND AS A RESULT OF THIS ARTICLE XXVIII NEGOTIATION.

K. THE U.S. REPRESENTATIVE SHOULD INFORM THE BRAZILIAN LIMITED OFFICIAL USE
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REPRESENTATIVE THAT WE ARE DISAPPOINTED THAT BRAZIL IS NOT PREPARED TO MAKE TARIFF CONCESSIONS ON AIRCRAFT, AIRCRAFT

PIECES AND SPARE PARTS, AND AIRCRAFT ENGINES. EVEN ON THE

BASIS OF A THREE-YEAR AVERAGE, THESE ITEMS ACCOUNT FOR A SIGNIFICANT AMOUNT OF TRADE (\$113.4 MILLION). WHILE THE U.S. RECOGNIZES BRAZIL'S RIGHT TO WITHDRAW THESE ITEMS, WE EXPECT APPROPRIATE COMPENSATION ELSEWHERE IN THE BRAZILIAN OFFER FOR THE WITHDRAWAL. BRAZIL SHOULD BE AWARE THAT THE U.S. IS INCREASINGLY CONCERNED ABOUT WHAT WE VIEW AS A LACK OF GATT JUSTIFICATION FOR THE NON-TARIFF TRADE MEASURES RELATED TO BRAZIL'S SECTORAL DEVELOPMENT POLICIES, IN THIS CASE, AIRCRAFT. THE U.S. IS NOW CONSIDERING REQUESTING CONSULTATIONS WITH BRAZIL UNDER ARTICLE XXIII TO DISCUSS WHAT THE U.S. REGARDS AS AN INCONSISTENCY BETWEEN BRAZIL'S ACTIONS AND ITS OBLIGATIONS UNDER THE GENERAL AGREEMENT.

5. BACKGROUND

A. THE U.S. IS PLEASED THAT BRAZIL HAS FINALLY OFFERED COMPENSATION IN THE ARTICLE XXVIII NEGOTIATIONS, ALTHOUGH WE ARE DISAPPOINTED IN THE QUANTITY AND QUALITY OF BRAZIL'S OFFER. THE ITEMS WITHDRAWN BY BRAZIL ACCOUNT FOR A SIGNIFICANT AMOUNT OF TRADE AND THE U.S. EXPECTS TO RECEIVE ADEQUATE COMPENSATION FROM BRAZIL.

B. WE CAN AGREE TO THE USE OF A THREE-YEAR AVERAGE TO CALCULATE THE TRADE COVERAGE OF THE ITEMS WITHDRAWN AND THE ITEMS OFFERED AS COMPENSATION. THE U.S. AND BRAZIL AGREE THAT ON THE BASIS OF 1972-74 TRADE, THE VALUE OF THE ITEMS WITHDRAWN BY BRAZIL IS \$220 MILLION. OF THE 24 ITEMS ON THE BRAZILIAN OFFER, 15 WERE REQUESTED BY THE U.S. IN OUR ARTICLE XXVIII REQUEST AND TWO (87.01.01.01 AND 90.19.99.00) WERE REQUESTED ON THE U.S. MTN INDICATIVE LIST OF TRADE INTERESTS. THESE ITEMS TOTAL \$45.4 MILLION. OF THE 7 ITEMS OFFERED BY BRAZIL BUT NOT REQUESTED BY THE U.S., WE ARE INTERESTED IN 6 ITEMS, WITH A VALUE OF \$56.6 MILLION. ACCORDING TO OUR CALCULATIONS, THEREFORE, THE BRAZILIAN OFFER AS PRESENTLY TABLED TOTALS \$102 MILLION. THE U.S. EXPECTS TO RECEIVE COMPENSATION NEARLY EQUAL TO THE VALUE OF THE IMPAIRMENT. IF BRAZIL WERE TO GRANT THE CONCESSIONS AND MAKE THE COMMITMENTS LISTED IN THE RECOMMENDATIONS, THE U.S. WOULD CREDIT BRAZIL WITH \$202 MILLION AS COMPENSATION FOR IMPAIRED CONCESSIONS. (SEE ATTACHMENT I.)

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C. WE ARE SKEPTICAL OF THE NEED FOR CEILING BINDS AS HIGH AS 30 PERCENTAGE POINTS ABOVE THE STATUTORY RATE. BINDINGS AT STATUTORY RATES WOULD NOT, IN OUR OPINION, UNACCEPTABLY REDUCE THE FLEXIBILITY OF THE BRAZILIAN

CUSTOMS POLICY COUNCIL (CPC) TO RAISE TARIFFS BY IN-

VOKING ARTICLES XXVIII OR XVIII:A. THESE GATT PROVISIONS WERE PROVIDED FOR THE EXPRESS PURPOSE OF GIVING CONTRACTING PARTIES THE FLEXIBILITY TO RAISE BOUND TARIFFS WHEN NEEDED.

D. IF BRAZIL NONETHELESS INSISTS ON BINDINGS AT HIGHER THAN STATUTORY RATES, OUR ACCEPTANCE OF SPECIFIC OFFERS WILL DEPEND ON THE LEVEL AT WHICH THE TARIFF IS SET. THE U.S. BELIEVES THAT BRAZIL, AS ONE OF THE ADVANCED DEVELOPING COUNTRIES, SHOULD NOT REQUIRE THE MAINTENANCE OF CEILING BINDINGS AT A HIGH LEVEL. THIS REPRESENTS THE U.S. BELIEF THAT AS THE ECONOMIES OF LDCS DEVELOP, THEY SHOULD BE ABLE TO ASSURE INCREASED OBLIGATIONS OF THE WORLD TRADING SYSTEM. WE WOULD LIKE BRAZIL TO IMPROVE ITS OFFER FOR THOSE ITEMS ON WHICH IT IS OFFERING CEILING BINDINGS.

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E. THERE ARE 12 ITEMS ON THE U.S. REQUEST LIST FOR WHICH BRAZIL DID NOT MAKE AN OFFER. SOME OF THESE ITEMS ARE OF PARTICULAR INTEREST TO THE U.S. AND WE WOULD LIKE BRAZIL TO RECONSIDER OUR REQUEST FOR COMPENSATION:

(1) 84.06.03.00, OTHER SPARK IGNITION ENGINES.

(2) 84.06.91.04, PISTONS.

THE U.S. INDUSTRY BELIEVES THERE IS GOOD EXPORT POTENTIAL IN THE ITEMS LISTED IN (1) AND (2).

(3) 85.19.08.00, PRINTED CIRCUITS. THIS ITEMS HAS BEEN IDENTIFIED BY INDUSTRY ADVISORS AS OF GREAT EXPORT INTEREST. THE PRODUCT IS USED IN COMPUTERS, A SECTOR IN WHICH THE U.S. HAS LARGE EXPORTS AND IS COMPETITIVE. DUE TO THE TEMPORARY SURCHARGE THE EFFECTIVE DUTY ON THIS ITEM IS 85 PERCENT.

(4) 85.15.03.01, PORTABLE TRANSCEIVERS. INDUSTRY ADVISORS INDICATE GREAT MARKET POTENTIAL IN BRAZIL. DUE TO THE TEMPORARY SURCHARGE THE EFFECTIVE DUTY ON THIS ITEM IS 185 PERCENT.

(5) 87.01.05.00

(6) 87.01.08.00

(7) 87.01.09.00

THE ITEMS IN (5), (6) AND (7) ARE LARGE TRADE ITEMS IN

WHICH U.S. INDUSTRY IS PRIMARY SUPPLIER. U.S. INDUSTRY

IS EXPORT ORIENTED.

F. IN THE ORIGINAL U.S. REQUEST FOR COMPENSATION WE
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SOUGHT A COMMITMENT FROM BRAZIL THAT IMPORT LICENSES FOR
ITEMS ON THE REQUEST LIST BE GRANTED WITHOUT ANY RE-
STRICTIONS. THIS REQUEST IS DESIGNED TO ASSURE THAT U.S.
EXPORTERS WILL FULLY BENEFIT FROM TARIFF CONCESSIONS
GRANTED BY BRAZIL IN THE ARTICLE XXVIII NEGOTIATION.
(THIS REQUEST IN NO WAY ALTERS THE U.S. POSITION IN THE
MTN ADVOCATING THE ELIMINATION OF ALL AUTOMATIC LICENSING.)
THE BRAZILIAN OFFER MAKES NO MENTION OF WHAT ASSURANCES
BRAZIL CAN MAKE ON IMPORT LICENSES. THE U.S. CANNOT
ACCEPT ANY OFFER WITHOUT A COMMITMENT FROM BRAZIL THAT
FOR ALL ITEMS ON WHICH A CONCESSION IS GRANTED IMPORT
LICENSES WILL BE PROMPTLY ISSUED WITHOUT ANY RESTRICTION.

G. DUTY RATES WERE RAISED 100 PERCENTAGE POINTS IN 1974
ON A BROAD RANGE OF ITEMS DESIGNATED "NONESSENTIAL" OR
"SUPERFLUOUS"; AND IN 1975 RATES WERE INCREASED 30 OR 100
PERCENTAGE POINTS ON AN ADDITIONAL 2,000 ITEMS. THESE
TEMPORARY SURCHARGES HAVE BEEN EXTENDED UNTIL JUNE 30,
1979. MANY OF THE ITEMS ON THE U.S. REQUEST FOR COM-
PENSATION ARE SUBJECT TO TEMPORARY SURCHARGES. DURING
CONSULTATIONS WITH BRAZIL UNDER ARTICLE XVIII HELD IN
MAY 1976, THE GOB REPRESENTATIVE STATED THAT NO ITEM IN
SCHEDULE III - BRAZIL HAD BEEN AFFECTED BY THE TEMPORARY
SURCHARGES. THEREFORE, THE U.S. ASKS FOR EXPLICIT CON-
FIRMATION THAT BRAZIL WILL NOT APPLY A SURCHARGE ON ANY
ITEM BOUND AS A RESULT OF THIS ARTICLE XXVIII NEGOTIATION.

H. IN 1976 THE U.S. PRESENTED BRAZIL WITH A REQUEST FOR
CONTRIBUTIONS IN GROUP TROPICAL PRODUCTS. AT THE TIME
BRAZIL INDICATED IT DID NOT INTEND TO MAKE CONTRIBUTIONS
UNTIL THE END OF THE MTN WHEN IT COULD ASSESS THE AD-
DITIONAL BENEFITS FOR BRAZIL. THE MTN OFFER MADE BY BRA-
ZIL ON JUNE 7 DOES NOT ADDRESS THE U.S. REQUESTS MADE IN
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GROUP TROPICAL PRODUCTS. OUR REQUESTS REPRESENT ITEMS
OF SIGNIFICANT EXPORT POTENTIAL AND U.S. INDUSTRY HAS
INDICATED GREAT INTEREST IN TARIFF REDUCTIONS ON THESE
PRODUCTS. THE ITEMS ON THE U.S. TROPICAL PRODUCTS
REQUEST LIST (ATTACHMENT II) SHOULD BE PRESENTED TO BRAZIL
AS A REQUEST FOR COMPENSATION IN THE ARTICLE XXVIII

NEGOTIATIONS. ON THE BASIS OF THREE-YEAR TRADE, THE
ITEMS ARE VALUE AT \$17.2 MILLION.

ATTACHMENT I

BRAZILIAN IMPORTS

1972-1974

MILLION US DOLLARS, FOB

84230210	4.5
84350500	3.3
84569900	2.1
85150700	.4
85190299	5.3
85190301	2.6
85190599	1.6
87020305	8.8
29090400	3.3
29140320	6.1
38140100	12.7
40029906	4.3
84220900	16.8
90101800	6.5
38140201	10.9
40029904	4.4
87010101	1.5
90199900	.07
84610302	1.0
85190102	.8
85190709	2.7
08060100	.08

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08060200	1.8
84060300	6.5
84069104	.8
85150301	.6
85190800	3.8
87010500	12.9
87010800	43.8
87010900	14.6
32050200	.2
32090205	.1
39029900	.07
84561002	.1
85010201	.1
85010501	.1
85011201	.2
85012400	.8
85211400	5.9
90231400	2.2
90289900	6.6

90290599 .7

ATTACHMENT II

B TN SHORTHAND DESCRIPTION AV. TRADE, 72-74
US \$ (000), FOB

32050200	ORGANIC LUMINOPHORES	209.2
32090205	ANTI-CORROSION PAINTS	113.1
39029900	OTHER POLYMERIZATION PRODUCTS	72.3
84561002	WASHING AND MIXING MACHINERY	110.3
85010201	AC GENERATORS	130.9
85010501	GENERATING SETS	109.4
85011201	SYNCHRONOUS MOTORS	178.6
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85012400	OTHER STATIC CURRENT CONVERTERS	771.2
85211400	MICROCIRCUITS	5899.2
90281400	INSTRUMENTS FOR MEASURING ELECTRICAL QUANTITIES	2160.7
90289900	OTHER ELECTRICAL INSTRUMENTS	6640.1
90290599	OTHER PARTS FOR ELECTRONIC INSTRUMENTS	763.9

TOTAL 17158.9
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Message Attributes

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